

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 877**

FINAL READING

Introduced by Cornett, 45.

Read first time January 11, 2010

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-202.04, 77-701, 77-1363, 77-1502, 77-1507, 77-3517,  
3 77-5007, 77-5013, 77-5016, 77-5018, and 77-5019, Reissue  
4 Revised Statutes of Nebraska; to authorize appeals by  
5 the Tax Commissioner and Property Tax Administrator  
6 as prescribed; to change provisions relating to soil  
7 surveys; to change provisions relating to descriptions of  
8 property for property tax purposes; to change provisions  
9 relating to homestead exemptions; to change powers and  
10 duties of the Tax Equalization and Review Commission; to  
11 harmonize provisions; to repeal the original sections;  
12 and to declare an emergency.

13 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-202.04, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-202.04 (1) Notice of a county board of equalization's  
4 decision granting or denying an application for exemption from  
5 taxation for real or tangible personal property shall be mailed or  
6 delivered to the applicant and the county assessor by the county  
7 clerk within seven days after the date of the board's decision.  
8 Persons, corporations, or organizations may appeal denial of an  
9 application for exemption by a county board of equalization. ~~Only~~  
10 ~~the county assessor may appeal the grant of such an~~ Only the county  
11 assessor, the Tax Commissioner, or the Property Tax Administrator  
12 may appeal the granting of such an exemption by a county board of  
13 equalization. Appeals pursuant to this section shall be made to the  
14 Tax Equalization and Review Commission in accordance with section  
15 77-5013 within thirty days after the decision of the county board  
16 of equalization. The Tax Commissioner or Property Tax Administrator  
17 may in his or her discretion intervene in any such appeal pursuant  
18 to this section. If the county assessor, Tax Commissioner, or  
19 Property Tax Administrator appeals a county board of equalization's  
20 final decision granting an exemption from property taxation, the  
21 person, corporation, or organization granted such exemption by the  
22 county board of equalization shall be made a party to the appeal  
23 and shall be issued a notice of the appeal by the Tax Equalization  
24 and Review Commission within thirty days after the appeal is filed.

25           (2) A copy of the final decision by a county board

1 of equalization shall be delivered electronically to the Tax  
2 Commissioner and the Property Tax Administrator within seven days  
3 after the date of the board's decision. The Tax Commissioner or the  
4 Property Tax Administrator shall have thirty days after the final  
5 decision to appeal the decision.

6           ~~(2)~~ (3) Any owner may petition the Tax Equalization and  
7 Review Commission in accordance with section 77-5013, on or before  
8 December 31 of each year, to determine the taxable status of real  
9 property for that year if a failure to give notice as prescribed  
10 by this section prevented timely filing of a protest or appeal  
11 provided for in sections 77-202 to 77-202.25.

12           Sec. 2. Section 77-701, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           77-701 (1) A division of state government to be known  
15 as the property assessment division of the Department of Revenue  
16 is established. The Property Tax Administrator shall be the chief  
17 administrative officer of the division but shall be under the  
18 general supervision of the Tax Commissioner.

19           (2) The goals and functions of the division shall be  
20 to: (a) Execute faithfully the property tax laws of the State of  
21 Nebraska; (b) provide for efficient, updated methods and systems  
22 of property tax reporting, enforcement, and related activities; and  
23 (c) continually seek to improve its system of administration.

24           (3) All employees, budget requirements, appropriations,  
25 encumbrances, and assets and liabilities of the Department of

1 Property Assessment and Taxation for the administration of property  
2 valuation and equalization shall be transferred and delivered to  
3 the division. The transferred employees shall not lose any accrued  
4 benefits or status due to the transfer and shall receive the same  
5 benefits as other state employees, including participation in the  
6 State Employees Retirement Act.

7 (4) The Tax Commissioner or Property Tax Administrator  
8 may appeal any final decision of a county board of equalization  
9 relating to the granting or denying of an exemption of real or  
10 personal property to the Tax Equalization and Review Commission. If  
11 the Tax Commissioner or Property Tax Administrator files such an  
12 appeal, the person, corporation, or organization granted or denied  
13 the exemption by the county board of equalization shall be made a  
14 party to the appeal and shall be issued a notice of the appeal  
15 by the Tax Equalization and Review Commission within thirty days  
16 after the appeal is filed. The Tax Commissioner or Property Tax  
17 Administrator may appeal any final decision of the Tax Equalization  
18 and Review Commission relating to the granting or denying of an  
19 exemption of real or personal property or relating to the valuation  
20 or equalization of real property.

21 ~~(4) In any litigation pending on July 1, 2007, at 12:01~~  
22 ~~a.m., in any court in this state, any contested case pending on~~  
23 ~~such date and time under the Administrative Procedure Act, or any~~  
24 ~~appeal pending on such date and time before the Tax Equalization~~  
25 ~~and Review Commission, in which the Property Tax Administrator is a~~

1 ~~party, the Tax Commissioner shall be substituted for the Property~~  
2 ~~Tax Administrator as the party in such litigation, contested case,~~  
3 ~~or appeal.~~

4           Sec. 3. Section 77-1363, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           77-1363 Agricultural land and horticultural land shall  
7 be divided into classes and subclasses of real property under  
8 section 77-103.01, including, but not limited to, irrigated  
9 cropland, dryland cropland, grassland, wasteland, nurseries,  
10 feedlots, and orchards, so that the categories reflect uses  
11 appropriate for the valuation of such land according to law.  
12 Classes shall be inventoried by subclasses of real property based  
13 on soil classification standards developed by the Natural Resources  
14 Conservation Service of the United States Department of Agriculture  
15 as converted into land capability groups by the Property Tax  
16 Administrator. County assessors shall utilize ~~and implement~~ soil  
17 surveys ~~in the assessment year after the soil survey maps become~~  
18 ~~available~~ from the Natural Resources Conservation Service of the  
19 United States Department of Agriculture as directed by the Property  
20 Tax Administrator. Nothing in this section shall be construed to  
21 limit the classes and subclasses of real property that may be used  
22 by county assessors or the Tax Equalization and Review Commission  
23 to achieve more uniform and proportionate valuations.

24           Sec. 4. Section 77-1502, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           77-1502 (1) The county board of equalization shall meet  
2 for the purpose of reviewing and deciding written protests filed  
3 pursuant to this section beginning on or after June 1 and ending  
4 on or before July 25 of each year. Protests regarding real property  
5 shall be signed and filed after the county assessor's completion  
6 of the real property assessment roll required by section 77-1315  
7 and on or before June 30. For protests of real property, a protest  
8 shall be filed for each parcel. Protests regarding taxable tangible  
9 personal property returns filed pursuant to section 77-1229 from  
10 January 1 through May 1 shall be signed and filed on or before June  
11 30. The county board in a county with a population of more than  
12 one hundred thousand inhabitants based upon the most recent federal  
13 decennial census may adopt a resolution to extend the deadline for  
14 hearing protests from July 25 to August 10. The resolution must  
15 be adopted before July 25 and it will affect the time for hearing  
16 protests for that year only. By adopting such resolution, such  
17 county waives any right to petition the Tax Equalization and Review  
18 Commission for adjustment of a class or subclass of real property  
19 under section 77-1504.01 for that year.

20           (2) Each protest shall be signed and filed with the  
21 county clerk of the county where the property is assessed. The  
22 protest shall contain or have attached a statement of the reason or  
23 reasons why the requested change should be made and a description  
24 of the property to which the protest applies. If the property  
25 is real property, a description ~~of~~ adequate to identify each

1 parcel shall be provided. If the property is tangible personal  
2 property, a physical description of the property under protest  
3 shall be provided. If the protest does not contain or have attached  
4 the statement of the reason or reasons for the protest or the  
5 applicable description of the property, the protest shall be  
6 dismissed by the county board of equalization.

7 (3) No hearing of the county board of equalization on  
8 a protest filed under this section shall be held before a single  
9 commissioner or supervisor.

10 (4) The county clerk or county assessor shall prepare a  
11 separate report on each protest. The report shall include (a) a  
12 description adequate to identify the real property or a physical  
13 description of the tangible personal property to which the protest  
14 applies, (b) any recommendation of the county assessor for action  
15 on the protest, (c) if a referee is used, the recommendation of the  
16 referee, (d) the date the county board of equalization heard the  
17 protest, (e) the decision made by the county board of equalization,  
18 (f) the date of the decision, and (g) the date notice of the  
19 decision was mailed to the protester. The report shall contain,  
20 or have attached to it, a statement, signed by the chairperson  
21 of the county board of equalization, describing the basis upon  
22 which the board's decision was made. The report shall have attached  
23 to it a copy of that portion of the property record file which  
24 substantiates calculation of the protested value unless the county  
25 assessor certifies to the county board of equalization that a copy

1 is maintained in either electronic or paper form in his or her  
2 office. One copy of the report, if prepared by the county clerk,  
3 shall be given to the county assessor on or before August 2. The  
4 county assessor shall have no authority to make a change in the  
5 assessment rolls until there is in his or her possession a report  
6 which has been completed in the manner specified in this section.  
7 If the county assessor deems a report submitted by the county clerk  
8 incomplete, the county assessor shall return the same to the county  
9 clerk for proper preparation.

10 (5) On or before August 2, or on or before August 18  
11 in a county that has adopted a resolution to extend the deadline  
12 for hearing protests, the county clerk shall mail to the protester  
13 written notice of the board's decision. The notice shall contain  
14 a statement advising the protester that a report of the board's  
15 decision is available at the county clerk's or county assessor's  
16 office, whichever is appropriate, and that a copy of the report may  
17 be used to complete an appeal to the Tax Equalization and Review  
18 Commission.

19 Sec. 5. Section 77-1507, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 77-1507 (1) The county board of equalization may meet at  
22 any time for the purpose of assessing any omitted real property  
23 that was not reported to the county assessor pursuant to section  
24 77-1318.01 and for correction of clerical errors as defined in  
25 section 77-128 that result in a change of assessed value. The

1 county board of equalization shall give notice of the assessed  
2 value of the real property to the record owner or agent at his or  
3 her last-known address. For real property which has been omitted in  
4 the current year, the county board of equalization shall not send  
5 notice pursuant to this section on or before June 1.

6 Protests of the assessed value proposed for omitted real  
7 property pursuant to this section or a correction for clerical  
8 errors shall be filed with the county board of equalization within  
9 thirty days after the mailing of the notice. All provisions of  
10 section 77-1502 except dates for filing a protest, the period for  
11 hearing protests, and the date for mailing notice of the county  
12 board of equalization's decision are applicable to any protest  
13 filed pursuant to this section.

14 (2) The county clerk shall, within seven days after the  
15 board's final decision, send:

16 (a) For protested action, a notification to the protester  
17 of the board's final action advising the protester that a report  
18 of the board's final decision is available at the county clerk's  
19 or county assessor's office, whichever is appropriate, and that a  
20 copy of the report may be used to complete an appeal to the Tax  
21 Equalization and Review Commission; and

22 (b) For protested and nonprotested action, a report to  
23 the Property Tax Administrator which shall state ~~the~~ a description  
24 ~~of~~ adequate to identify the property, the reason such property was  
25 not assessed pursuant to section 77-1301, and a statement of the

1 board's justification for its action. A copy of the report shall be  
2 available for public inspection in the office of the county clerk.

3 (3) The action of the county board of equalization upon  
4 a protest filed pursuant to this section may be appealed to the  
5 Tax Equalization and Review Commission within thirty days after the  
6 board's final decision.

7 (4) Improvements to real property which were properly  
8 reported to the county assessor pursuant to section 77-1318.01 for  
9 the current year and were not added to the assessment roll by the  
10 county assessor on or before March 19 shall only be added to the  
11 assessment roll by the county board of equalization from June 1  
12 through July 25. In counties that have adopted a resolution to  
13 extend the deadline for hearing protests under section 77-1502, the  
14 deadline of July 25 shall be extended to August 10.

15 Sec. 6. Section 77-3517, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 77-3517 (1) On or before August 1 of each year,  
18 the county assessor shall forward the approved applications for  
19 homestead exemptions and a copy of the certification of disability  
20 status that have been examined pursuant to section 77-3516 to  
21 the Tax Commissioner. The Tax Commissioner ~~who~~ shall determine if  
22 the applicant meets the income requirements and may also review  
23 any other application information he or she deems necessary in  
24 order to determine whether the application should be approved. The  
25 Tax Commissioner shall, on or before November 1, certify his or

1 her determinations to the county assessor. If the application is  
2 approved, the county assessor shall make the proper deduction on  
3 the assessment rolls. If the application is denied or approved in  
4 part, the Tax Commissioner shall notify the applicant of the denial  
5 or partial approval by mailing written notice to the applicant at  
6 the address shown on the application. The applicant may appeal the  
7 Tax Commissioner's denial or partial approval pursuant to section  
8 77-3520. Late applications authorized by the county board shall  
9 be processed in a similar manner after approval by the county  
10 assessor.

11 (2) (a) Upon his or her own action or upon a request by  
12 an applicant, a spouse, or an owner-occupant, the Tax Commissioner  
13 may review ~~the income information of applicants.~~ any information  
14 necessary to determine whether an application is in compliance  
15 with sections 77-3501 to 77-3529. Any action taken by the Tax  
16 Commissioner pursuant to this subsection shall be taken within  
17 three years after December 31 of the year in which the exemption  
18 was claimed.

19 (b) If after completion of the review the Tax  
20 Commissioner determines that an exemption should have been approved  
21 or increased, ~~for reasons of the income requirements,~~ the Tax  
22 Commissioner shall notify the applicant, spouse, or owner-occupant  
23 and the county treasurer and assessor of his or her determination.  
24 The applicant, spouse, or owner-occupant shall receive a refund of  
25 the tax, if any, that was paid as a result of the exemption being

1 denied, in whole or in part. The county treasurer shall make the  
2 refund and shall amend the county's claim for reimbursement from  
3 the state.

4 (c) If after completion of the review the Tax  
5 Commissioner determines that an exemption should have been denied  
6 or reduced, ~~for reasons of the income requirements,~~ the Tax  
7 Commissioner shall notify the applicant, spouse, or owner-occupant  
8 of such denial or reduction. The applicant, the spouse, and  
9 any owner-occupant may appeal the Tax Commissioner's denial or  
10 reduction pursuant to section 77-3520. Upon the expiration of the  
11 appeal period in section 77-3520, the Tax Commissioner shall notify  
12 the county assessor of the denial or reduction and the county  
13 assessor shall remove or reduce the exemption from the tax rolls of  
14 the county. Upon notification by the Tax Commissioner to the county  
15 assessor, the amount of tax due as a result of the action of the  
16 Tax Commissioner shall become a lien on the homestead until paid.  
17 Upon attachment of the lien, the county treasurer shall refund  
18 to the Tax Commissioner the amount of tax equal to the denied  
19 or reduced exemption for deposit into the General Fund. No lien  
20 shall be created if a change in ownership of the homestead or  
21 death of the applicant, the spouse, and all other owner-occupants  
22 has occurred prior to the Tax Commissioner's notice to the county  
23 assessor.

24 Sec. 7. Section 77-5007, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   77-5007 The commission has the power and duty to hear and  
2 determine appeals of:

3                   (1) Decisions of any county board of equalization  
4 equalizing the value of individual tracts, lots, or parcels of  
5 real property so that all real property is assessed uniformly and  
6 proportionately;

7                   (2) Decisions of any county board of equalization  
8 granting or denying tax-exempt status for real or personal property  
9 or an exemption from motor vehicle taxes and fees;

10                  (3) Decisions of the Tax Commissioner, and decisions  
11 of the Property Tax Administrator made before July 1, 2007,  
12 determining the taxable property of a railroad company, car  
13 company, public service entity, or air carrier within the state;

14                  (4) Decisions of the Tax Commissioner, and decisions  
15 of the Property Tax Administrator made before July 1, 2007,  
16 determining adjusted valuation pursuant to section 79-1016;

17                  (5) Decisions of any county board of equalization on  
18 the valuation of personal property or any penalties imposed under  
19 sections 77-1233.04 and 77-1233.06;

20                  (6) Decisions of any county board of equalization on  
21 claims that a levy is or is not for an unlawful or unnecessary  
22 purpose or in excess of the requirements of the county;

23                  (7) Decisions of any county board of equalization  
24 granting or rejecting an application for a homestead exemption;

25                  (8) Decisions of the Department of Motor Vehicles

1 determining the taxable value of motor vehicles pursuant to section  
2 60-3,188;

3 (9) Decisions of the Tax Commissioner, and decisions of  
4 the Property Tax Administrator made before July 1, 2007, made under  
5 section 77-1330;

6 (10) Any other decision of any county board of  
7 equalization;

8 (11) Any other decision of the Property Tax Administrator  
9 made before July 1, 2007, and decisions made by the Tax  
10 Commissioner regarding property valuation, exemption, or taxation  
11 made on or after July 1, 2007;

12 (12) Decisions of the Tax Commissioner pursuant to  
13 section 77-3520; and

14 (13) Final decisions of a county board of equalization  
15 appealed by the Tax Commissioner or Property Tax Administrator  
16 pursuant to section 77-701; and

17 ~~(13)~~ (14) Any other decision, determination, action, or  
18 order from which an appeal to the commission is authorized.

19 The commission has the power and duty to hear and grant  
20 or deny relief on petitions.

21 Sec. 8. Section 77-5013, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 77-5013 (1) The commission obtains exclusive jurisdiction  
24 over an appeal or petition when:

25 (a) The commission has the power or authority to hear the

1 appeal or petition;

2 (b) An appeal or petition is timely filed;

3 (c) The filing fee, if applicable, is timely received and  
4 thereafter paid; and

5 (d) In the case of an appeal, a copy of the decision,  
6 order, determination, or action appealed from, or other information  
7 that documents the decision, order, determination, or action  
8 appealed from, is timely filed.

9 Only the requirements of this subsection shall be deemed  
10 jurisdictional.

11 (2) A petition, an appeal, or the information required by  
12 subdivision (1)(d) of this section is timely filed and the filing  
13 fee, if applicable, is timely received if placed in the United  
14 States mail, postage prepaid, with a legible postmark for delivery  
15 to the commission, or received by the commission, on or before the  
16 date specified by law for filing the appeal or petition. If no date  
17 is otherwise provided by law, then an appeal shall be filed within  
18 thirty days after the decision, order, determination, or action  
19 appealed from is made.

20 (3) The filing fee for each appeal or petition filed  
21 with the commission is twenty-five dollars, except that no filing  
22 fee shall be required for an appeal by a county assessor, the Tax  
23 Commissioner, or the Property Tax Administrator acting in his or  
24 her official capacity or a county board of equalization acting in  
25 its official capacity.

1           (4) The form and requirements for execution of an appeal  
2 or petition may be specified by the commission in its rules and  
3 regulations.

4           Sec. 9. Section 77-5016, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           77-5016 Any hearing or proceeding of the commission shall  
7 be conducted as an informal hearing unless a formal hearing is  
8 granted as determined by the commission according to its rules and  
9 regulations. In any hearing or proceeding heard by the commission  
10 or a panel of commissioners:

11           (1) The commission may admit and give probative  
12 effect to evidence which possesses probative value commonly  
13 accepted by reasonably prudent persons in the conduct of their  
14 affairs excluding incompetent, irrelevant, immaterial, and unduly  
15 repetitious evidence and shall give effect to the privilege rules  
16 of evidence in sections 27-501 to 27-513 but shall not otherwise  
17 be bound by the usual common-law or statutory rules of evidence  
18 except during a formal hearing. Any party to an appeal filed  
19 under section 77-5007 may request a formal hearing by delivering a  
20 written request to the commission not more than thirty days after  
21 the appeal is filed. The requesting party shall be liable for the  
22 payment of fees and costs of a court reporter pending a final  
23 decision. The commission shall be bound by the rules of evidence  
24 applicable in district court in any formal hearing held by the  
25 commission. Fees and costs of a court reporter shall be paid by the

1 party or parties against whom a final decision is rendered, and all  
2 other costs shall be allocated as the commission may determine;

3 (2) The commission may administer oaths, issue subpoenas,  
4 and compel the attendance of witnesses and the production of  
5 any papers, books, accounts, documents, statistical analysis, and  
6 testimony. The commission may adopt and promulgate necessary rules  
7 for discovery which are consistent with the rules adopted by the  
8 Supreme Court pursuant to section 25-1273.01;

9 (3) The commission may consider and utilize the  
10 provisions of the Constitution of the United States, the  
11 Constitution of Nebraska, the laws of the United States, the  
12 laws of Nebraska, the Code of Federal Regulations, the Nebraska  
13 Administrative Code, any decision of the several courts of the  
14 United States or the State of Nebraska, and the legislative history  
15 of any law, rule, or regulation, without making the document  
16 a part of the record. The commission may without inclusion in  
17 the record consider and utilize published treatises, periodicals,  
18 and reference works pertaining to the valuation or assessment of  
19 real or personal property or the meaning of words and phrases  
20 if the document is identified in the commission's rules and  
21 regulations. All other evidence, including records and documents  
22 in the possession of the commission of which it desires to avail  
23 itself, shall be offered and made a part of the record in the case.  
24 No other factual information or evidence other than that set forth  
25 in this section shall be considered in the determination of the

1 case. Documentary evidence may be received in the form of copies or  
2 excerpts or by incorporation by reference;

3 (4) Every party shall have the right of cross-examination  
4 of witnesses who testify and shall have the right to submit  
5 rebuttal evidence;

6 (5) The commission may take notice of judicially  
7 cognizable facts and in addition may take notice of general,  
8 technical, or scientific facts within its specialized knowledge  
9 or statistical information regarding general levels of assessment  
10 within a county or a class or subclass of real property within  
11 a county and measures of central tendency within such county or  
12 classes or subclasses within such county which have been made  
13 known to the commission. Parties shall be notified either before  
14 or during the hearing or by reference in preliminary reports or  
15 otherwise of the material so noticed. They shall be afforded  
16 an opportunity to contest the facts so noticed. The commission  
17 may utilize its experience, technical competence, and specialized  
18 knowledge in the evaluation of the evidence presented to it;

19 (6) Any person testifying under oath at a hearing  
20 who knowingly and intentionally makes a false statement to the  
21 commission or its designee is guilty of perjury. For the purpose of  
22 this section, perjury is a Class I misdemeanor;

23 (7) The commission may determine any question raised in  
24 the proceeding upon which an order, decision, determination, or  
25 action appealed from is based. The commission may consider all

1 questions necessary to determine taxable value of property as it  
2 hears an appeal or cross appeal;

3 (8) In all appeals, excepting those arising under  
4 section 77-1606, if the appellant presents no evidence to show  
5 that the order, decision, determination, or action appealed  
6 from is incorrect, the commission shall deny the appeal. If  
7 the appellant presents any evidence to show that the order,  
8 decision, determination, or action appealed from is incorrect,  
9 such order, decision, determination, or action shall be affirmed  
10 unless evidence is adduced establishing that the order, decision,  
11 determination, or action was unreasonable or arbitrary;

12 (9) If the appeal concerns a decision by the county board  
13 of equalization that property is, in whole or in part, exempt from  
14 taxation, the decision to be rendered by the commission shall only  
15 determine the exemption status of the property. The decision shall  
16 not determine the taxable value of the property unless stipulated  
17 by the parties according to subsection (2) of section 77-5017;

18 (10) If the appeal concerns a decision by the county  
19 board of equalization that property owned by the state or a  
20 political subdivision is or is not exempt and there has been no  
21 final determination of the value of the property, the decision to  
22 be rendered by the commission shall only determine the exemption  
23 status of the property. The decision shall not determine the  
24 taxable value of the property unless stipulated by the parties  
25 according to subsection (2) of section 77-5017;

1           (11) The costs of any appeal, including the costs of  
2 witnesses, may be taxed by the commission as it deems just, except  
3 costs payable by the appellant pursuant to section 77-1510.01,  
4 unless (a) the appellant is the county assessor or county clerk  
5 in which case the costs shall be paid by the county or (b) the  
6 appellant is the Tax Commissioner or Property Tax Administrator in  
7 which case the costs shall be paid by the state; and

8           (12) The commission shall deny relief to the appellant or  
9 petitioner in any hearing or proceeding unless a majority of the  
10 commissioners present determine that the relief should be granted.

11           Sec. 10. Section 77-5018, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           77-5018 (1) The commission may issue decisions and orders  
14 which are supported by the evidence and appropriate for resolving  
15 the matters in dispute. Every final decision and order adverse  
16 to a party to the proceeding, rendered by the commission in a  
17 case appealed to the commission, shall be in writing or stated  
18 in the record and shall be accompanied by findings of fact and  
19 conclusions of law. The findings of fact shall consist of a concise  
20 statement of the conclusions upon each contested issue of fact.  
21 Parties to the proceeding shall be notified of the decision and  
22 order in person or by mail. A copy of the decision and order shall  
23 be delivered or mailed ~~upon request~~ to each party or his or her  
24 attorney of record. Within seven days of issuing a decision and  
25 order, the commission shall electronically publish such decision

1 and order on a web site maintained by the commission that is  
2 accessible to the general public. The full text of final decisions  
3 and orders entered after a hearing by the commission or a panel of  
4 commissioners shall be published on the web site. Final decisions  
5 and orders that are entered (a) on a dismissal by the appellant or  
6 petitioner, (b) on a default order when the appellant or petitioner  
7 failed to appear, or (c) by agreement of the parties may be  
8 published on the web site in a summary manner identifying the  
9 parties, the case number, and the basis for the final decision and  
10 order. Any decision rendered by the commission shall be certified  
11 to the county treasurer and to the officer charged with the duty  
12 of preparing the tax list, and if and when such decision becomes  
13 final, such officers shall correct their records accordingly and  
14 the tax list pursuant to section 77-1613.02.

15 (2) The commission may, on its own motion, modify or  
16 change its findings or orders, at any time before an appeal and  
17 within ten days after the date of such findings or orders, for the  
18 purpose of correcting any ambiguity, clerical error, or patent or  
19 obvious error. The time for appeal shall not be lengthened because  
20 of the correction unless the correction substantially changes the  
21 findings or order.

22 (3) The Tax Commissioner or the Property Tax  
23 Administrator shall have thirty days after a final decision of the  
24 commission to appeal the commission's decision.

25 Sec. 11. Section 77-5019, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           77-5019 (1) Any party aggrieved by a final decision in  
3 a case appealed to the commission, any party aggrieved by a final  
4 decision of the commission on a petition, ~~or~~ any party aggrieved  
5 by an order of the commission issued pursuant to section 77-5020  
6 or sections 77-5023 to 77-5028, or any party aggrieved by a final  
7 decision of the commission appealed by the Tax Commissioner or  
8 the Property Tax Administrator pursuant to section 77-701 shall be  
9 entitled to judicial review in the Court of Appeals. Upon request  
10 of the county, the Attorney General may appear and represent the  
11 county or political subdivision in cases in which the commission  
12 is not a party. Nothing in this section shall be deemed to prevent  
13 resort to other means of review, redress, or relief provided by  
14 law.

15           (2)(a) Proceedings for review shall be instituted by  
16 filing a petition and the appropriate docket fees in the Court  
17 of Appeals within thirty days after the date on which a final  
18 appealable order is entered by the commission. All parties of  
19 record shall be made parties to the proceedings for review. The  
20 commission shall only be made a party of record if the action  
21 complained of is an order issued by the commission pursuant to  
22 section 77-1504.01 or 77-5020 or sections 77-5023 to 77-5028.  
23 Summons shall be served on all parties within thirty days after  
24 the filing of the petition in the manner provided for service  
25 of a summons in section 25-510.02. The court, in its discretion,

1 may permit other interested persons to intervene. No bond or  
2 undertaking is required for an appeal to the Court of Appeals.

3 (b) A petition for review shall set forth: (i) The name  
4 and mailing address of the petitioner; (ii) the name and mailing  
5 address of the county whose action is at issue or the commission;  
6 (iii) identification of the final decision at issue together with  
7 a duplicate copy of the final decision; (iv) the identification of  
8 the parties in the case that led to the final decision; (v) the  
9 facts to demonstrate proper venue; (vi) the petitioner's reasons  
10 for believing that relief should be granted; and (vii) a request  
11 for relief, specifying the type and extent of the relief requested.

12 (3) The filing of the petition or the service of summons  
13 upon the commission shall not stay enforcement of a decision. The  
14 commission may order a stay. The court may order a stay after  
15 notice of the application for the stay to the commission and to  
16 all parties of record. The court may require the party requesting  
17 the stay to give bond in such amount and conditioned as the court  
18 directs.

19 (4) Upon receipt of a petition the date for submission  
20 of the official record shall be determined by the court. The  
21 commission shall prepare a certified copy of the official record  
22 of the proceedings had before the commission in the case. The  
23 official record shall include: (a) Notice of all proceedings;  
24 (b) any pleadings, motions, requests, preliminary or intermediate  
25 rulings and orders, and similar correspondence to or from the

1 commission pertaining to the case; (c) the transcribed record  
2 of the hearing before the commission, including all exhibits and  
3 evidence introduced during the hearing, a statement of matters  
4 officially noticed by the commission during the proceeding, and  
5 all proffers of proof and objections and rulings thereon; and (d)  
6 the final order appealed from. The official record in an appeal  
7 of a commission decision issued pursuant to sections 77-5023 to  
8 77-5028 may be limited by the request of a petitioner to those  
9 parts of the record pertaining to a specific county. The commission  
10 shall charge the petitioner with the reasonable direct cost or  
11 require the petitioner to pay the cost for preparing the official  
12 record for transmittal to the court in all cases except when the  
13 petitioner is not required to pay a filing fee. If payment is  
14 required, payment of the cost, as estimated by the commission, for  
15 preparation of the official record shall be paid to the commission  
16 prior to preparation of the official record and the commission  
17 shall not transmit the official record to the court until payment  
18 of the actual costs of its preparation is received.

19 (5) The review shall be conducted by the court for error  
20 on the record of the commission. If the court determines that  
21 the interest of justice would be served by the resolution of any  
22 other issue not raised before the commission, the court may remand  
23 the case to the commission for further proceedings. The court may  
24 affirm, reverse, or modify the decision of the commission or remand  
25 the case for further proceedings.

1                   (6) Appeals under this section shall be given precedence  
2 over all civil cases.

3                   Sec. 12. Original sections 77-202.04, 77-701, 77-1363,  
4 77-1502, 77-1507, 77-3517, 77-5007, 77-5013, 77-5016, 77-5018, and  
5 77-5019, Reissue Revised Statutes of Nebraska, are repealed.

6                   Sec. 13. Since an emergency exists, this act takes effect  
7 when passed and approved according to law.